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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

ALL OFFICERS - continued:

1. Compliance Requirements - continued:

(Note: There appears to be a conflict between Section 7-4-2511(1) above and 7-4-2715, MCA, as it pertains to the county attorney's collection and remittance of fees to the treasurer. (See Compliance Requirement No. 1 below under Attorney.) Because Section 7-4-2715, MCA, is specific in regard to the county attorney, it would appear that 7-4-2715 should be followed by the county attorney.)

- The fees and compensation collected and paid to the county treasurer must be accompanied by an affidavit and copy of the fee book for the preceding month, verified by the officer making the payment. The treasurer must file and preserve in his office said statements and affidavits and must issue to the officer one original and one duplicate receipt. The officer receiving said receipts must preserve one in his office and file the duplicate with the county clerk. (Section 7-4-2512 & 7-4-2513)
- The board of county commissioners may not order the payment of the salary of any officer until the officer has filed the duplicate receipt with the county clerk, properly signed by the treasurer, showing that the officer has made the statement and settlement for that month. (Section 7-4-2514, MCA)
- No salaried county officer may receive for his own use any fees, penalties, or emoluments of any kind, except the salary as provided by law, for any official service rendered by him. Unless otherwise provided, all fees, penalties, and emoluments of every kind collected by a salaried county officer are for the sole use of the county and must be accounted for and paid to the county treasurer and credited to the general fund of the county. (Section 7-4-2511(2), MCA)

(Note: Because there is no statutory duty imposed upon clerks of court concerning the issuance of passports, it is not a duty of their office for which they are regularly compensated. Therefore, county clerks of court may personally retain the fees collected for issuance of passports. (A.G.O. No 41, Vol. 34) This A.G.O. refers to an earlier A.G.O. (No. 85, Vol. 22) that concludes that the limitation of 7-4-2511 is specifically limited to compensation for official duties performed. In Anderson v. Hinman, the Montana Supreme Court noted, "an officer is not obliged, because his office is salaried, to perform all manner of public service without additional compensation, and for services performed by request, not part of the duties of his office, and which could have been as appropriately performed by any other person, he may recover a proper remuneration.")

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

ALL OFFICERS - continued:

Suggested Audit Procedures:

- Throughout your testing of collections in various offices, determine that monies collected by salaried county officers were remitted to the county treasurer by the 10th day of each month unless otherwise provided by law.
- Verify that each officer making payment to the treasurer received copies of the county treasurer's receipt (A-101 receipt) as described above.
- If you become aware of a fee that is collected by a county officer and that is not remitted to the county treasurer, verify that the collection of the fee is not an official duty of that officer. If it is an official duty of that officer, disclose the finding and recommend that the fee be remitted to the county treasurer as required by statute.

ATTORNEY:

1. Compliance Requirements:

- The county attorney must keep a register of all official business, in which must be entered a note of every action, whether criminal or civil, prosecuted officially and of the proceedings therein. Deliver receipts for money or property received and file duplicates thereof must be remitted to the county treasurer. (Section 7-4-2715, MCA)
- The county attorney must on the first Monday of January, April, July, and October in each year file with the county clerk an account, verified by his oath, of all money received by him in his official capacity during the preceding 3 months and at the same time pay it over to the county treasurer. (Section 7-4-2715, MCA)
- If the county attorney refuses or neglects to account for and pay over money received by him as required above and in Section 7-6-2117(1), the county treasurer must bring an action against him for the recovery thereof in the name of the county and may recover in such action, in addition to the amount so received, 50% thereon by way of damages. (Section 7-6-2117, MCA)

Suggested Audit Procedures:

- Tests selected entries in the county attorney's register of all official business, and verify that all money or property has been remitted to the county treasurer on the dates as specified above.
- Determine that the county treasurer brought action against the attorney if he/she failed to remit money or property to the treasurer as required.

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

ATTORNEY - continued:

Suggested Audit Procedures:

- Obtain copies of the county attorney's account of moneys collected that have been remitted to the county clerk. Verify that the amounts reported on the report reconcile to the county attorney's register of all official business. Also, verify that the amounts have been remitted to the county treasurer and that the remittance is supported by an official A-101 receipt from the county treasurer.

CLERK AND RECORDER:

1. Compliance Requirements:

- The county clerk and recorder shall collect the following fees: (Section 7-4-2631, MCA)
 1. for recording and indexing each certificate of location of a quartz or placer mining claim or millsite claim, including a certificate that the instrument has been recorded with seal affixed, \$6;
 2. for recording and indexing each affidavit of annual labor on a mining claim, including certificate that the instrument has been recorded with seal affixed:
 - (a) for the first mining claim in the affidavit, \$3;
 - (b) for each additional mining claim included in it, 50 cents;
 3. for filing and indexing each writ of attachment, execution, certificate of sale, lien, or other instrument required by law to be filed and indexed, \$5;
 4. for filing of subdivision and townsite plats, \$5 plus:
 - (a) for each lot up to and including 100, 50 cents;
 - (b) for each additional lot in excess of 100, 25 cents;
 5. for filing certificates of surveys and amendments thereto, \$5 plus 50 cents per tract or lot;
 6. for a copy of a record or paper:
 - (a) for the first page of any document, 50 cents, and 25 cents for each subsequent page; and
 - (b) for each certification with seal affixed, \$2;
 7. for searching an index record of files of the office for each year when required in abstracting or otherwise, 50 cents;
 8. for administering an oath with certificate and seal, no charge;
 9. for taking and certifying an acknowledgment, with seal affixed, for signature to it, no charge;
 10. for filing, indexing, or other services provided for by Title 30, Chapter 9A, Part 5, MCA, the fees prescribed under those sections;

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

CLERK AND RECORDER - continued:

1. Compliance Requirements - continued:

(Note: These sections relate to the Uniform Commercial Code and filing to perfect a security interest, and address the filing and indexing of financial statements, termination statements, statements of assignment, and statements of release. It appears that the fees must be set by the Secretary of State. (Section 30-9A-525, MCA))

11. for recording each stock subscription and contract, stock certificate, and articles of incorporation for water users' associations, \$3;
 12. for filing a copy of notarial commission and issuing a certificate of official character of such notary public, \$2;
 13. for each certified copy of a birth certificate, \$5, and for each certified copy of a death certificate, \$3;
 14. for filing, recording, or indexing any other instrument not expressly provided for in this section or Section 7-4-2632, MCA, the same fee provided in this section or Section 7-4-2632, MCA, for a similar service.
- On each instrument that is recorded, the clerk and recorder shall note the fee charged. (Section 7-4-2634, MCA)
 - The fees collected above must be remitted to the county treasurer by the 10th day of the following month, and shall be credited to the county general fund. (Section 7-4-2511, MCA)
 - Where recording is done by photographic or similar process, the clerk and recorder shall charge \$6 (**Effective July 1, 2005, \$7**) per page or fraction of page. (Section 7-4-2632, MCA) The clerk and recorder shall deposit \$1 of this fee into the Records Preservation Fund (BARS Fund No. 2393), and shall use the money in this fund only for records preservation (Section 7-4-2635, MCA). The remainder of this fee shall be credited to the county general fund, as provided by Section 7-4-2511(2), MCA.
 - **Effective July 1, 2005:** Except as provided in Section 7-4-2631, MCA (see above), the fee for recording a standard document that meets the requirements of Section 7-4-2636, MCA, is \$7 for each page or fraction of a page. Of the \$7 fee, \$1 must be deposited in the county records preservation fund (BARS Fund No. 2393), 25 cents must be deposited in the county land information fund (BARS Fund No. 2859), 75 cents must be transmitted to the State (BARS Fund No. 7551) Montana land information account, and the remainder must be deposited to the county general fund. (**Note: Standards for recorded documents are listed at Section 7-4-2636, MCA.**) (Section 7-4-2637, MCA)

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

CLERK AND RECORDER - continued:

1. Compliance Requirements - continued:

- **Effective July 1, 2005:** The fee for recording a document that does not meet the requirements of a standard document as specified in Section 7-4-2636, MCA, is \$11 for each page or fraction of a page for the first five pages or fractions of the pages, and \$7 for each subsequent page. Each \$7 amount per page or fraction of a page must be deposited per the above compliance requirement (i.e., \$1 to the county Records Preservation Fund, 25 cents to the county land information account, 75 cents to the State land information account, and the remainder to the county general fund.) The remaining \$4 of each \$11 charge per page must be deposited in the county Records Preservation Fund and, notwithstanding the provisions of Section 7-4-2635(3), MCA, be used only for maintaining, upgrading, or installing systems to digitally record and retrieve documents. **(Note: Standards for recorded documents are listed at Section 7-4-2636, MCA. Documents executed prior to July 1, 2005 must be accepted for recording and considered standard documents, regardless of whether they meet the requirements for a standard document as specified in Section 7-4-2636, MCA. (Section 7-4-2636, MCA)) (Section 7-4-2637, MCA)**

Suggested Audit Procedures:

- Test selected entries in the clerk and recorder's fee book, verifying that the fees collected are for the amount specified by statute. If deemed necessary, review selected documents which have been recorded, and verify that the fee collected has been noted on the document, and that this fee agrees with the fee entered into the fee book.
- For selected months, trace the total fees collected from the clerk and recorder's fee book to a county treasurer's receipt. Verify that the fees are deposited to the appropriate county funds as required by law. Also, verify that the amount of the receipt reconciles to the total charges in the fee book.

(Note: Per Section 7-4-2631(2), MCA, a state agency or political subdivision may have an account with the clerk and recorder's office, which must be paid on a periodic basis. Therefore, total monthly fees charged per the fee book may not equal total monthly fees collected and remitted to the treasurer.)

CLERK OF DISTRICT COURT:

1. Compliance Requirement:

- Each clerk of district court shall maintain a docket that details each proceeding or action, as specified in Section 3-5-508, MCA.

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

CLERK OF DISTRICT COURT - continued:

Suggested Audit Procedure:

- Review the docket and determine that it contains the information required by Section 3-5-508, MCA.

2. Compliance Requirements:

- The clerk of district court shall collect the following fees:

(Note: Except as specifically noted below, all fees collected by the clerk of district court must be forwarded to the State for deposit in the state general fund. In addition, any filing fees, fines, penalties, or awards collected by the district court or district court clerk not otherwise specifically allocated must be deposited in the state general fund. Except as otherwise noted, BARS Fund No. 7461 is used to hold these fees, fines, penalties and awards until remitted to the State. (Section 25-1-201(2) & (8), MCA)

1. \$90 at the commencement of each action or proceeding, except a petition for dissolution of marriage, from the plaintiff or petitioner; (Section 25-1-201(1)(a), MCA)
Distributed as follows (BARS Fund No. 7463):
 - a. \$9 deposited in the civil legal assistance for indigent victims of domestic violence account established in 3-2-714 (Section 25-1-201(5), MCA)
 - b. Remainder to the State for deposit in the state general fund as required by Section 25-1-201(2), MCA.
2. \$80 for filing a complaint in intervention, from the intervenor; (Section 25-1-201(1)(a), MCA)
3. \$160 (**effective 10/1/2005, \$170**) for filing a petition for dissolution of marriage; (Section 25-1-201(1)(a), MCA)
Distributed as follows (BARS Fund No. 7464):
 - a. \$5 must be deposited in the children's trust fund account established in Section 52-7-102, MCA, (Section 25-1-201(3)(a), MCA)
 - b. \$9 (**effective 10/1/2005, \$19**) must be deposited in the civil legal assistance for indigent victims of domestic violence account established in Section 3-2-714, MCA, (Section 25-1-201(3)(a), MCA) and
 - c. \$30 must be deposited in the partner and family member assault intervention and treatment fund established in Section 40-15-110, MCA. (Section 25-1-201(3)(a), MCA)
 - d. Remainder to the State for deposit in the state general fund as required by Section 25-1-201(2), MCA
4. \$150 for filing a petition for legal separation; (Section 25-1-201(1)(a), MCA)
Distributed as follows (BARS Fund No. 7465):

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

CLERK OF DISTRICT COURT - continued:

2. Compliance Requirements - continued:

- a. \$5 must be deposited in the children's trust fund account established in Section 52-7-102, MCA, (Section 25-1-201(3)(b), MCA) and
 - b. \$30 must be deposited in the partner and family member assault intervention and treatment fund established in Section 40-15-110, MCA. (Section 25-1-201(3)(b), MCA)
 - c. Remainder to the State for deposit in the state general fund as required by Section 25-1-201(2), MCA
5. \$120 for filing a petition for a contested amendment of a final parenting plan; (Section 25-1-201(1)(a), MCA)
(Note: If the moving party files a statement signed by the nonmoving party agreeing not to contest an amendment of a final parenting plan at the time the petition for amendment is filed, the clerk of district court may not collect from the moving party the fee for filing a petition for a contested amendment of a parenting plan. (Section 25-1-201(4), MCA)
6. \$60 from each defendant or respondent, on appearance; (Section 25-1-201(1)(b), MCA)
7. \$45 on the entry of judgment, from the prevailing party; (Section 25-1-201(1)(c), MCA)
8. for preparing copies of papers on file in the clerk's office:
 Except as noted in a. & b. below, \$1 a page for the first 10 pages of each file, for each request, and 50 cents for each additional page; (Section 25-1-201(1)(d), MCA)
 - a. for a copy of a marriage license, \$5
 - b. for a copy of a dissolution decree, \$10;
 Distributed as follows: county district court fund, or if a district court fund does not exist, to the county general fund for district court operations. (Section 25-1-201(6), MCA)
9. \$2 for each certificate, with seal; (Section 25-1-201(1)(e), MCA)
10. \$1 for oath and jurat, with seal; (Section 25-1-201(1)(f), MCA)
11. for a search of court records:
 - a. \$2 for each name for each year searched, for a period of up to 7 years, and an additional \$1 for each name for any additional year searched; (Section 25-1-201(1)(g), MCA)
 Distributed as follows: county district court fund, or if a district court fund does not exist, to the county general fund for district court operations. (Section 25-1-201(6), MCA)
12. \$45 for filing and docketing a transcript of judgment or transcript of the docket from all other courts; (Section 25-1-201(1)(h), MCA)
13. \$5 for issuing an execution or order of sale on a foreclosure of a lien; (Section 25-1-201(1)(i), MCA)

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

CLERK OF DISTRICT COURT - continued:

2. Compliance Requirements - continued:

14. \$5 for transmission of records or files or transfer of a case to another court;
(Section 25-1-201(1)(j), MCA)
Distributed as follows: county district court fund, or if a district court fund does not exist, to the county general fund for district court operations;
(Section 25-1-201(6), MCA)
15. \$10 for filing and entering papers received by transfer from other courts;
(Section 25-1-201(1) (k), MCA)
16. \$30 (**effective 7/1/2005, \$53**) for issuing a marriage license; (Section 25-1-201(1)(l), MCA)
Effective 7/1/2005, distributed as follows (BARS Fund No. 7468):
 - a. \$13 to the domestic violence intervention account established by 44-4-310, MCA, (Section 25-1-201(7), MCA)
 - b. \$10 to the county district court fund, or if a district court fund does not exist, to the county general fund, (Section 25-1-201(7) and
 - c. Remainder to the State for deposit in the state general fund as required by Section 25-1-201(2), MCA.
17. \$70 on the filing of an application for informal, formal, or supervised probate or for the appointment of a personal representative or the filing of a petition for the appointment of a guardian or conservator, from the applicant or petitioner, which includes the fee for filing a will for probate; (Section 25-1-201(1)(m), MCA)
18. \$55 on the filing of the items required in Section 72-4-303, MCA, by a domiciliary foreign personal representative of the estate of a nonresident decedent; (Section 25-1-201(1)(n), MCA)
19. \$30 (**effective 7/1/2005, \$53**) for filing a declaration of marriage without solemnization; (Sections 25-1-201(1)(o) & 40-1-311, MCA)
Effective 7/1/2005, distributed as follows (BARS Fund No. 7468):
 - a. \$13 to the domestic violence intervention account established by 44-4-310, MCA, (Section 25-1-201(7), MCA)
 - b. \$10 to the county district court fund, or if a district court fund does not exist, to the county general fund, (Section 25-1-201(7) and
 - c. Remainder to the State for deposit in the state general fund as required by Section 25-1-201(2), MCA.
20. \$100 for filing a motion for substitution of a judge; and (Section 25-1-201(1)(p), MCA)
21. \$75 for filing a petition for adoption; (Section 25-1-201(1)(q), MCA)
Although this fee is now deposited in the state general fund with other District Court fees (see general distribution above), it is remitted to the State on a separate line captioned "Petition for Adoption" in Section 3 of the County Collection Report. (BARS Fund No. 7462)

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

CLERK OF DISTRICT COURT - continued:

2. Compliance Requirements - continued:

- In addition to other filing fees as described above, a fee of \$20 must be paid to the clerk of district court at the time of filing a civil action in the district court. The fee must be forwarded by the clerk to the State for deposit in the state general fund. The prevailing party may have the amount paid by the prevailing party taxed in the bill of costs as proper disbursements. (Section 25-1-202, MCA)
- **Prior to July 1, 2005:** In addition to the fees described above for a marriage license, the applicant shall pay a recording fee of 25 cents. This 25 cent fee must be forwarded to the state for deposit in the state general fund. (Section 50-15-301, MCA) (Effective July 1, 2005, this provision repealed.)
- Every person solemnizing a marriage who shall neglect to make and deliver to the clerk of the district court a certificate thereof within 30 days after having solemnized such marriage shall forfeit for such neglect a sum not less than \$10 or more than \$50; and any clerk of the district court who shall neglect to record such certificate so delivered within 1 month after its delivery shall forfeit the like penalty. (Section 40-1-321, MCA)
- The clerk of district court may charge a \$2 handling fee for maintenance or support payments that are made to the clerk of district court. The fee is to be deposited in the district court fund, or the general fund if the county does not have a district court fund. The maintenance or support payment is to be deposited into the district court trust fund, to be held in trust for remittance to the person entitled to receive the payment. (Section 40-4-206, MCA)

(Note: County Clerks of Court may personally retain the fees collected for issuance of passports. (A.G.O. No. 41, Vol. 34 (1972)) See Note at bottom of page 2 under ALL OFFICERS above for additional information.)

Suggested Audit Procedure:

- Test selected clerk of district court receipts to determine that the fees collected are for the amount specified by statute and that they are deposited to the proper county and/or state fund as required by law.

3. Compliance Requirements:

- A jury panel member before any court of record shall receive \$12 per day for attendance and a mileage allowance, as provided in Section 2-18-503, MCA, for traveling each way between his residence and the county seat. (Section 3-15-201 and 203, MCA)

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

CLERK OF DISTRICT COURT - continued:

3. Compliance Requirements - continued:

- Witnesses receive a \$10 fee for each day and the mileage allowance as provided by Section 2-18-503, MCA, for traveling to the place of the trial or hearing. (Section 26-2-501, 502 & 505, MCA)
(Note: A District Court cannot award costs in excess of \$10 a day per witness as costs for expert witnesses. The statute specifically limiting expert witness fees to \$10 a day controls the general statute authorizing a District Court to award costs in accordance with the course and practice of the court. (Witty v. Pluid, 220 M 272, 714 P2d 169, 43 St. Rep. 354 (1986), followed in Goodover v. Lindsey's Inc., 255 M 430, 843 P2d 765, 49 St. Rep. 1059 (1992)).
- The clerk of district court must keep a record of the attendance of jurors and witnesses and compute the amount due for mileage. The mileage allowance to be paid is the rate allowed by the United States Internal Revenue Service for the preceding year for the first 1,000 miles traveled within a calendar month, and 3 cents per mile less for all miles thereafter traveled in the same month. The distance from any point to the county seat must be determined by the shortest traveled route. (Sections 2-18-503, 3-5-510, and 3-15-204, MCA)
- Those jurors who are selected from the jury panel for a case will receive, in addition to the \$12 referred to above, an additional \$13 a day while serving. (Section 3-15-201 and 203, MCA)

Suggested Audit Procedure:

- As part of expenditure testing, determine that any payments to jurors and witnesses were for the proper amount as required by statute, and that the attendance and mileage were properly documented.

4. Compliance Requirement:

- The clerk of district court must prepare a warrant that states the name of each juror or witness, the number of days of attendance, the number of miles traveled, and the amount due. The state (Office of Supreme Court Administrator) shall reimburse the clerk for the amount specified in the warrant as provided in 3-5-901 and 3-5-902. **Effective July 1, 2006**, if a witness was subpoenaed by a public defender, the amount paid to the witness must be reimbursed by the Office of State Public Defender as provided in 47-1-201. (Sections 3-15-204 and 3-5-511, MCA)
- **Effective on Occurrence of Contingency** – The clerk of district court must prepare a warrant that states the name of each juror, the number of days of attendance, the number of miles traveled, and the amount due. If costs relate to an asbestos-related

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CLERK OF DISTRICT COURT - continued:

4. Compliance Requirements - continued:

claim, the payment must be made from the asbestos claims administration fund provided for in Section 3-20-104, MCA. (Sections 3-15-204, MCA)

(Note: This provision is effective contingent on a determination by the Montana Supreme Court that, based on decisions reached in the federal bankruptcy proceedings involving W.R. Grace and other circumstances that the Court deems advisable to consider, there exists sufficient need to implement the provisions of Chapter 473 of the 2001 Legislative Session relating to the creation of an asbestos claims court and judge and providing for the procedures to be used to trying an asbestos-related claim. The Court shall notify the Secretary of State and the Code Commissioner when this contingency is met.)

Suggested Audit Procedure:

- As part of expenditure testing, determine that payments to jurors and witnesses were paid as required by statute.

5. Compliance Requirement:

- The clerk must make a detailed statement containing a list of witnesses and the amount of fees and mileage earned by each and must file this report with the clerk of the board of county commissioners on the first day of every regular meeting of the board. (Section 3-5-512, MCA)

(Note: This provision of law was eliminated for jurors (Section 3-15-204) but not for witnesses by the 2001 Legislature. Effective 3/26/2003, payments for both jurors and witnesses are now reimbursed by the State, so the provision to file this report to the county commissioners for witnesses does not appear relevant anymore even though it was not eliminated as it was for jurors.)

Suggested Audit Procedure:

- Review selected copies of the statement of witness fees prepared by the clerk and determine if it contains all required information and is being prepared by the clerk each month and filed with the clerk of the board of county commissioners.

6. Compliance Requirements:

- All fines for misdemeanors and felonies, and court costs of convicted defendants, are remitted to the State for deposit in the state general fund. (Section 46-18-235, MCA) These fines, etc., are remitted to the State in Section 3 of the County Collection Report on a line captioned "District Court Fines, Assessments, Payments and Forfeitures" (BARS Fund No. 7466). Also remitted to the State on this line are (1) the costs of impaneling a jury assessed against any party in a civil action (3-15-205),

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CLERK OF DISTRICT COURT - continued:

6. Compliance Requirements - continued:

- (2) forfeitures of bail posted in felony cases (46-9-511), and (3) costs of court-appointed counsel paid by a defendant prior to 7/1/06 (46-18-114). Exceptions to this general distribution rule are as follows:
 - a. Court costs assessed against a convicted defendant, per Section 46-18-232, MCA, may include costs of jury service that were previously reimbursed by the State through the District Court Reimbursement Program (Section 3-5-901(3), MCA; effective 7/1/2006, Section 3-5-901(2), MCA)). Although these costs are deposited in the state general fund, they are remitted to the State on a separate line captioned "Criminal Jury Reimbursement" in Section 3 of the County Collection Report. (BARS Fund No. 7448)
 - b. Violations of laws relating to outfitters and guides – 50% to the county general fund and 50% to the State for deposit in the state special revenue fund for the use of the Board of Outfitters. (Section 37-47-344) (BARS Fund No. 7449)
 - c. Drug violations of Title 45, Chapters 9 & 10, MCA - to the drug forfeiture account maintained for the law enforcement agency that made the arrest from which the conviction and fine arose. If the county sheriff or city/town law enforcement made the arrest, the fine is deposited to the county or city/town drug forfeiture fund, respectively. If state law enforcement officials made the arrest, the fine is deposited in an account in the state special revenue fund to the credit of the department of justice, to be used for enforcement of drug laws. (Sections 46-18-235 and 44-12-206, MCA) (BARS Fund No. 7450, if State arrest)
 - d. Illegal killing or possession of wildlife pursuant to Sections 87-1-111, 112, 113, and 115, MCA - to the State for deposit in the state special revenue fund account to the credit of the Department of Fish, Wildlife and Parks for hunter education purposes or for enforcement. Money collected in excess of \$60,000 annually must be remitted to the State for deposit in the state general fund. (Section 87-1-114, MCA) (BARS Fund No. 7453)
 - e. Wildlife Decoy Restitution - to the State for credit to the State Department of Fish, Wildlife and Parks. (Section 87-3-109(3), MCA) (BARS Fund No. 7453)
 - f. Violation of tax and registration requirements for off-highway vehicles - to the State to be deposited to the state general fund. (Section 23-2-807, MCA)
Although these fines are deposited in the state general fund, they are remitted to the State on a separate line captioned "FWP OHV Registration Fine – ATV Restitution Fine" in Section 3 of the County Collection Report. (BARS Fund No. 7454)
 - g. Failure to pay the fee in lieu of tax on boats and other watercraft - 50% to the county general fund and 50% to the State to be credited to the motorboat state special revenue fund for use by the Department of Fish, Wildlife and Parks in the enforcement of this part. (Section 23-2-519, MCA) (BARS Fund No. 7455)

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

CLERK OF DISTRICT COURT - continued:

6. Compliance Requirements - continued:

- h. FWP Underwater Diver Violation (and other violations of Title 23, Chapter 2, Part 5, MCA) – 100% to state general fund. (Section 23-2-507, MCA) Although these fines are deposited in the state general fund, they are remitted to the State on a separate line captioned “FWP Underwater Diver Fine” in Section 3 of the County Collection Report. (BARS Fund No. 7456)
- i. State Recreational Land Use Permit Fines pursuant to Section 77-1-801, MCA - to the State for deposit in the state general fund. (Section 87-1-601(7), MCA) Although these fines are deposited in the state general fund, they are remitted to the State on a separate line captioned “State Lands Use Permit Fine” in Section 3 of the County Collection Report. (BARS Fund No. 7457)
- j. Possession of Dangerous Drugs – a mandatory fine equal to 35% of drug market value. (Note: This fine is in addition to other fines for drug possession as provided in 46-18-231.) (Section 45-9-130, MCA) - 100% to state general fund. Although these fines are deposited in the state general fund, they are remitted to the State on a separate line captioned “Fines – Dangerous Drugs” in Section 3 of the County Collection Report. (BARS Fund No. 7459)
- k. Campground violations (Section 50-52-105) - 100% to state general fund. Although these fines are deposited in the state general fund, they are remitted to the State on a separate line captioned “Fines – Campgrounds, etc.” in Section 3 of the County Collection Report. (BARS Fund No. 7460)
- l. Tobacco possession or consumption by persons under 18 - to the county general fund. (Section 45-5-637, MCA)
- m. Violations of Natural Streambed and Land Preservation Act – fines and penalties deposited to a conservation district’s depository. (Section 75-7-123, MCA)
- n. Violations of laws relating to the use of, and the operation of vehicles on state highways - If the apprehension or arrest was by a highway patrol officer, fines or forfeitures must be paid to the State for credit to the state general fund (see general distribution above). If apprehension or arrest was made by a sheriff or deputy sheriff, fines and forfeitures must be deposited in the county general fund, except for that portion of the fines otherwise allocated by law, which must be paid into the appropriate accounts in the state special revenue fund. (Section 61-12-701, MCA)
- o. **Effective October 1, 2005** - Violations of speed limits near schools – 50% of the fine must be distributed as provided in 46-18-235 (see general distribution, above), and 50% must be forwarded to the local authority that adopted the special speed limit. (Section 61-8-726, MCA)

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

CLERK OF DISTRICT COURT - continued:

Suggested Audit Procedure:

- For selected cases, determine that the fines, cost assessments or forfeitures collected are deposited to the proper county fund, or remitted to the State, as required by law.

7. Compliance Requirement:

- Upon an individual's conviction or forfeiture of bond or bail, there is imposed a charge that is in addition to any fine, court costs, or fees imposed. These amounts are as follows: (a) \$15 for each misdemeanor charge, (b) the greater of \$20 or 10% of the fine levied for each felony charge and (c) an additional \$25 (**effective October 1, 2005, \$50**) for each misdemeanor and felony charge under Title 45, and Sections 61-8-401 and 61-8-406, MCA, that pertain to DUI's. (Section 46-18-236, MCA)
- The charges described above under (a) and (b) above are to be credited to the fund used to pay salaries of deputy county attorneys and other salaries in the office of the county attorney (generally the county general fund). Any funds not needed for those salaries may be used for the payment of any other county salaries. (Sections 46-18-236(6)(b))
- The charge described above under (c) is to be distributed as follows:
 - a. If the county operates or uses a victim and witness advocate program that provides the services specified in Title 40, Chapter 15, and Title 46, Chapter 24, MCA, \$24 of the \$25 (**effective 10/1/2005, \$49 of the \$50**) shall be used for payment of the expenses of that program. (BARS Fund #2917) The other \$1 shall be deposited in the fund that pays the collecting court's administrative costs incurred in the collection of the charge (usually the county general fund). (**Note: This \$1 is not subject to allocation under 46-18-251, as discussed in Compliance Requirement No. 10, below.**)
 - b. If the county does not operate or use a victim and witness advocate program, \$24 of the \$25 (**effective 10/1/2005, \$49 of the \$50**) collected under (c) above must be paid to the crime victims compensation and assistance program in the department of justice for deposit in the state general fund to be used to provide services to crime victims as provided in Title 53, chapter 9, part 1, MCA (BARS Fund No. 7699-2). The other \$1 is distributed as described above. (Section 46-18-236(7), MCA)

Suggested Audit Procedure:

- Test selected cases to determine that upon conviction or forfeiture of bond or bail, the appropriate charges described above are imposed in addition to any other required fine, court cost, or fee, and that they are distributed as described above.

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

CLERK OF DISTRICT COURT - continued:

8. Compliance Requirements:

- Court Information Technology Surcharge - In courts of original jurisdiction, a \$10 surcharge that is in addition to any fine, court costs, or fees is imposed:
 - (a) on a defendant in criminal cases upon conviction or forfeiture of bond or bail;
 - (b) on the initiating party in civil and probate cases, at the commencement of each action, proceeding, or filing; and
 - (c) on each defendant or respondent in civil cases upon appearance.

This surcharge is to be forwarded to the State (BARS Fund No. 7458) for deposit in the account established under Section 3-5-904, MCA, (**Effective June 28, 2005**, for deposit in the State general fund) for state funding of court information technology. (Section 3-1-317, MCA)

Suggested Audit Procedure:

- Test selected cases to determine that the above surcharge is collected in the amount, and distributed in the manner, indicated above.

9. Compliance Requirement:

- Supervisory Fee for Probationers/Parolees -
A probationer, parolee, or person committed to the Department of Corrections who is supervised by the department under intensive supervision or conditional release shall pay to the clerk of the district court that has jurisdiction over the person during the person's supervision a supervisory fee of no less than \$120 a year and no more than \$360 a year, prorated at no less than \$10 a month for the number of months under supervision. The fee is to be remitted to the State. **Effective July 1, 2005, this fee is no longer collected by the clerk of district court.** (Section 46-23-1031, MCA)

(Note: As a condition of restitution, the offender is also required to pay the cost of supervising the payment of restitution in an amount equal to 10% of the amount of restitution, but not less than \$5. In felony cases, the offender pays this supervisory fee directly to the Department of Corrections. In misdemeanor cases, this payment is made to the court which in turn disburses the money to the entity employing the supervisory individual. This payment is separate from the supervisory fee discussed above. (Sections 46-18-241 & 245, MCA))

Suggested Audit Procedure:

- Test selected cases to determine that supervisory fees were collected in the amounts indicated above and were distributed as specified above.

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

CLERK OF DISTRICT COURT - continued:

10. Compliance Requirement:

- If a defendant is subject to payment of restitution and any combination of fines, costs, surcharges, etc, 50% of all money collected from the defendant must be first applied to payment of restitution and the balance must be applied to these other payments, in the order listed in Section 46-18-251, MCA (i.e., surcharge imposed pursuant to 46-18-236 first, then supervisory fees imposed pursuant to 46-23-1031, then costs imposed pursuant to 46-18-232 or 46-18-233, then fines imposed pursuant to 46-18-231 or 46-18-233, and then any other payments ordered by the court.) (Section 46 - 18-251, MCA)

(Note: The funds deposited under Section 46-18-236(7)(b) (i.e., the \$1 deposited to the fund that pays the collecting court's administrative costs incurred in the collection of the surcharge discussed in Compliance Requirement No. 7, above) are not subject to this allocation.)

Suggested Audit Procedure:

- Test selected cases to determine that money collected from a defendant is allocated as specified above.

CORONER:

1. Compliance Requirements:

- The coroner must file with the clerk of the board of county commissioners a statement, in writing and verified by his affidavit, showing (a) the amount of money or other property belonging to the estate of the deceased person which has come into his possession, and (b) the disposition made of such property. (7-4-2914, MCA)

Suggested Audit Procedures:

- Inquire of the coroner and review the records on file with the clerk of the board of county commissioners to determine that the above duties required by law were performed.

COUNTY AND JOINT AIRPORTS:

1. Compliance Requirement:

- Subject to the provisions of Section 15-10-420, MCA, the county commissioners may each year assess and levy, (**in addition to the annual levy for general administrative purposes), a tax on the taxable value of all taxable property in the county for airports and landing fields. **(Effective April 19, 2005, "landing fields" is deleted from this section.)** (Section 67-10-402, MCA) **(**Effective July 1, 2005, this phrase deleted from this section.)**

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

COUNTY AND JOINT AIRPORTS - continued:

Suggested Audit Procedure:

- Determine that the mill levy for the Airport, as assessed, was within the budget constraints as described above.

2. Compliance Requirements:

- The governing body or bodies may set up a reserve fund to resurface, overlay, or improve existing runways, taxiways, and ramps. (Section 67-10-402(4), MCA)
- The reserve fund must be approved during the normal budgeting procedure, and the necessity to resurface or improve said runways by overlays or similar methods must be based upon competent engineering estimates. (Section 67-10-402(4), MCA)
- The money in the reserve fund must be spent within a 10-year period. (Section 67-10-402(4), MCA)
- The reserve fund may not exceed at any time a competent engineering estimate of the cost of resurfacing or overlaying the existing runways, taxiways, and ramps. (Section 67-10-402(5), MCA)

Suggested Audit Procedures:

- If a reserve fund was established during the audit period, determine that the requirements described above relating to approval, purposes of the fund, and the required engineering estimate were adhered to.
- Test selected expenditures of the reserve fund to determine that they are for projects authorized by law, as specified above. If there are on-going projects, determine if any have exceeded the 10-year period allowed by law.
- Determine that the reserve fund does not exceed a competent engineering estimate of the cost of resurfacing or overlaying the existing runways, taxiways, and ramps.

3. Compliance Requirement:

- The money in a reserve fund may be invested in interest- bearing deposits in a state or national bank insured by the FDIC or obligations of the United States, either short-term or long-term. Interest on the investments must be credited to the operations and maintenance budget of the airport. (Section 67-10-402(5), MCA)

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

COUNTY AND JOINT AIRPORTS - continued:

Suggested Audit Procedures:

- If the reserve fund moneys were invested, determine that the investments were as described above.
- Determine that any interest earnings were credited to the airport operating fund, and that no interest earnings were credited to the reserve fund.

4. Compliance Requirement:

- Per diem and mileage of a joint board may be set by resolution of the board of county commissioners. (Section 67-10-205(1), MCA)

Suggested Audit Procedure:

- Determine the per diem and mileage allowances established for the joint board by the board of county commissioners. As part of expenditures testing, determine that any joint airport expenditures for per diem and mileage adhere to the allowances set by the board of commissioners.

5. Compliance Requirement:

- The revenues obtained from the ownership and operation of an airport must be deposited to the airport fund or joint airport fund, as appropriate. (Sections 67-10-404 and 67-10-206, MCA)

Suggested Audit Procedure:

- Test selected receipts and determine that money received from the operation of the airport was deposited to the airport fund or joint airport fund.

COUNTY AUDITOR - (In Counties Having A County Auditor):

1. Compliance Requirements:

- All claims must have the approval of the county auditor before being paid. (Section 7-6-2407, MCA)
- Within 30 days of receipt of a claim, the county auditor shall approve or disapprove the claim, or notify the board of county commissioners, the claimant, and any affected county officials or department heads in writing that the claim requires further investigation. Further investigation must be completed, and the claim approved or disapproved, with 60 days of the written notification. (Section 7-6-2407(2), MCA)

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

COUNTY AUDITOR - (In Counties Having A County Auditor) - continued:

1. Compliance Requirements – continued:

- If the county auditor disapproves payment of a claim, within 5 days of the disapproval the auditor must provide written documentation to the board of county commissioners, the claimant and any affected county officials or department heads specifying the reasons for the disapproval. Within 15 days of the disapproval, the auditor must present documentation and testimony in support of the disapproval to the board of county commissioners in a public hearing at a properly noticed and regularly scheduled meeting of the board of county commissioners. The commissioners may order the payment of the claim by a majority vote at a regular board meeting. The county auditor may appeal this decision to the district court within 7 working days. If the board's decision is not appealed within the required 7-day period, the claim must be paid. (Section 7-6-2407(4)(b), MCA)

Suggested Audit Procedures:

- As part of expenditure testing, determine that claims were approved by the county auditor before being paid.
- Review records of the county auditor to determine that the auditor either approved or disapproved a claim, or notified the required parties that the claim required further investigation, within 30 days of receipt of the claim. Verify that the notification was in writing. If further investigation was required for any claim, verify that it was completed within 60 days of the written notification.
- If the county auditor disapproves any claim, review the records to determine that written notification was provided to all required parties within the time frame noted above.
- Determine also that documentation and testimony was provided to the commissioners by the auditor as noted above.
- Determine that the statutory procedures noted above were followed in instances where the commissioners ordered the payment of the claim against the wishes of the auditor, and that any appeal of that decision by the auditor to the district court was made within the prescribed time period.

2. Compliance Requirements:

- The county auditor must maintain a book or register that has a complete record of claims approved and disapproved. (Section 7-6-2407, MCA)

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

COUNTY AUDITOR - (In Counties Having A County Auditor) - continued:

2. Compliance Requirements – continued:

- The county auditor shall receive from the county clerk and recorder, within 10 days after the adjournment of each session of the board of county commissioners, a list of the claims allowed or rejected, either in whole or in part, by them. This list shall be recorded by the auditor in a book kept for that purpose. (Section 7-6-2411, MCA)

Suggested Audit Procedures:

- Determine that the county auditor has maintained the required book or register of claims approved and disapproved
- Verify that the clerk and recorder remitted to the auditor a list of the claims allowed or rejected by the board of county commissioners and that the action of the board was dully noted in a book kept for that purpose.

3. Compliance Requirements:

- It is the duty of the county auditor to examine the books of the county officers within 15 days prior to the first regular session of the board of county commissioners in March, June, September and December of each year, unless a longer time is granted to the auditor by the board. (Section 7-6-2409, MCA)
- The quarterly report shall contain a full and complete statement of the money received and disbursed by each of the county officers since the last examination and report. (Section 7-6-2409, MCA)

(Note: Section 7-4-2203, MCA, lists the following as being county officers: (a) county attorney; (b) clerk of the district court; (c) clerk and recorder; (d) sheriff; (e) county treasurer; (f) county superintendent of schools; (g) county surveyor; (h) assessor; (i) coroner; (j) public administrator; and (k) at least one justice of the peace.)

Suggested Audit Procedure:

- Review documentation regarding the examination of the books of the county officers by the county auditor, and determine that the required examinations have been conducted.

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

COUNTY COMMISSIONERS:

1. Compliance Requirement:

- The board of county commissioners has jurisdiction and power, under such limitations and restrictions as are prescribed by law, to supervise the official conduct of all county officers and officers of all districts and other subdivisions of the county charged with assessing, collecting, safekeeping, management, or disbursement of the public revenues; see that they faithfully perform their duties; direct prosecutions for delinquencies; and when necessary, require them to renew their official bonds, make reports, and present their books and accounts for inspection by the board and, require them to supervise staff in a manner that complies with personnel policies and procedures adopted by the county governing body. (Section 7-4-2110, MCA)

Suggested Audit Procedure:

- Through observation, inquiry and a review of the minutes, determine if the board of county commissioners, under such limitations and restrictions as are prescribed by law, has been supervising the officers described above, and has been requiring the officers to perform those actions discussed above, as necessary.

2. Compliance Requirements:

- A county officer, including a county commissioner, must in no case absent himself from the state for a period of more than 60 days and for no period longer than 15 days without the consent of the board of county commissioners, and if he does so absent himself, he forfeits his office. (Section 7-4-2208, MCA) (A.G.O. No. 19, Vol 37)
- The sheriff, undersheriff, or deputy sheriffs of any county may absent themselves from the state, with the permission of the board, for a period of more than 60 days for the sole purpose of attending a recognized and accredited law enforcement training school without effecting forfeiture of their offices. (Section 7-4-2208, MCA)

Suggested Audit Procedures:

- Through inquiry and a review of the minutes determine if any officer of the county was absent from the state for a period of time.
- If the time absent was greater than 15 days, determine that the time absent from the state was approved by the board of county commissioners and that it did not exceed the 60 day time limit described above, except for sheriff's department officials.

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

COUNTY COMMISSIONERS - continued:

3. Compliance Requirement:

- At a regular meeting of the board of county commissioners in March and September of each year, the board of county commissioners shall carefully examine all official bonds of all county officials then in force and effect and investigate the qualifications and financial condition and liability of all sureties thereon and their sufficiency. (Section 7-4-2213, MCA) (Note: See 'Employee Bond Coverage' in CNTY – 1)

Suggested Audit Procedure:

- Verify that the board of county commissioners examined the official bonds of all county officials at its regular meetings in March and September.

4. Compliance Requirement:

- The board of county commissioners in each county is authorized to fix and determine the number of county deputy officers and to allow the several county officers to appoint a greater number of deputies than the maximum number allowed by law when, in the judgment of the board, such greater number of deputies is needed for the faithful and prompt discharge of the duties of any county office. (Section 7-4-2402, MCA)

(Note: A board of county commissioners has authority through control of the county budget to restrict the number of deputies hired by elected officials. Therefore, a clerk of the district court may not employ a chief deputy or any other deputies without authorization of the board. (A.G.O. No. 77. Vol. 43))

Suggested Audit Procedure:

- Verify that the board of county commissioners has authorized the number of deputy officers allowed by each elected officer. This may be by separate action of the board or through approval of the budget for that official.

5. Compliance Requirements:

- The board of county commissioners must cause to be kept:
 - a "Minute Book" in which must be recorded all orders and decisions made by them and the daily proceedings had at all regular and special meetings;
 - a "Road Book" containing all proceedings and adjudications relating to the establishment, maintenance, change, and discontinuance of roads and road districts or relating to road supervisors and their reports and accounts;
 - a "Franchise Book" containing all franchises granted by them, for what purpose, the length of time and to whom granted, and the amount of bond and license tax required;

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

COUNTY COMMISSIONERS - continued:

5. Compliance Requirement:

- d. a "Warrant Book" in which must be entered, in the order of drawing, all warrants drawn on the treasury, with their number and reference to the order on the minute book and with the date, amount, on what account, and name of payee.
(Section 7-5-2129, MCA)

Suggested Audit Procedure:

- Determine if the county commissioners maintain the records described above.

6. Compliance Requirements:

- Unless otherwise provided by law, each officer shall keep the officer's office open for the transaction of business during the office hours determined by the board of county commissioners by resolution after a public hearing. Those hours must be consented to by any affected elected county officer. (Section 7-4-102(1), MCA)
- County treasurers may, in the interest of the safekeeping of funds, securities, and records under their control, close their offices during the period from noon to 1 p.m. every day. (Section 7-4-102(2), MCA)

Suggested Audit Procedure:

- Review the county commissioners resolution establishing the office hours for county officers and determine that those are the hours the county offices are open, except that the county treasurer may elect to close his or her office during the period from noon to 1 p.m. every day.

COUNTY FAIR:

1. Compliance Requirement:

- The board of county commissioners may establish by resolution a fair commission board, and specify whether members are entitled to mileage, per diem, expenses, and salary. (Section 7-1-201 and 202, MCA)

Suggested Audit Procedure:

- Review the resolution establishing the fair commission board and test to determine that members are being paid mileage, per diem, expenses, and/or salaries as specified in the resolution.

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

COUNTY FAIR - continued:

2. Compliance Requirements:

- The county commissioners may appropriate annually, out of the general fund of the county and to the county fair commission, funds (prior to July 1, 2005, this read “a sum not to exceed \$3,500”) to be used for the purpose of holding a county fair and/or junior fair and for advertising the products and resources of the county. (Section 7-21-3410(1), MCA)
- Subject to the provisions of Section 15-10-420, MCA, and in addition to or in lieu of the appropriation provided for above; the county commissioners may levy an ad valorem tax (prior to July 1, 2005, this was limited to a tax of 1½ mills or less) on each dollar of taxable property in the county for the purpose of securing, equipping, maintaining, and operating a county fair and/or a junior fair, including the purchase of land for such purposes and the erection of such buildings and other appurtenances as may be necessary. These funds must be kept in a separate fair fund by the county treasurer (BARS Fund #2160). (Sections 7-21-3410(2) and (3), MCA)
- No amount appropriated or levied under Section 7-21-3410, MCA, as described above, may be expended for horse racing. (Section 7-21-3411, MCA)
- The county commissioners may appropriate \$1,000 a year out of the general fund for the purpose of defraying the expenses of collecting, transporting, and taking care of any exhibit from the county at any state fair, county agricultural fair, 4-H club or future farmer fair, seed show, or other agricultural exhibit held within the state or county. (Section 7-21-3412, MCA)

Suggested Audit Procedures:

- Review the budget appropriations of the county general fund and the fair fund, and the actual receipts of the fair fund, to determine that any amounts appropriated and transferred to the fair commission from the general fund for fair purposes were within the limits described above.
- Review the accounting records to determine that a separate fair fund was established for fair activities.
- As part of expenditure testing, determine that expenditures from the fair fund, including amounts appropriated to the fair commissioners from the county general fund and the proceeds from any tax levy, were for purposes allowed by law.

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

COUNTY FAIR - continued:

3. Compliance Requirements:

- Expenditures must be approved by the fair commission and warrants must be signed by the president and secretary of the fair commission. (Section 7-21-3410(3), MCA)
- Some counties may have the fair commission approve the expenditures, but the warrants are issued by the county clerk and recorder and signed by the chairman of the board of county commissioners and the clerk and recorder. This is acceptable so long as the approval of the fair commission is documented by the signatures of the fair commission president or secretary (on a listing of approved expenditures, either separate or in the minutes).

Suggested Audit Procedure:

- As part of expenditure testing, determine that fair fund expenditures are approved by the fair commission (as documented by the signatures of the president and secretary of the fair commission).

4. Compliance Requirement:

- In addition to the powers and duties established in the resolution of the board of county commissioners creating the fair commission and by the provisions of Sections 7-21-3407 through 7-21-3413, MCA, the fair commissioners have control and operation of the fair and the supervision and management of the fairgrounds and also the leasing of buildings and fairgrounds on a continuous basis throughout the fiscal year, and all money received for the leasing or renting of the buildings or the fairgrounds shall be deposited to the fair fund. (Sections 7-21-3406 and 3409, MCA)

Suggested Audit Procedures:

- As a part of revenue testing, determine that moneys received for the lease or rental of the fairgrounds, fair buildings, or facilities was deposited to the fair fund.
- Review fair fund revenue and determine whether there were any revenues from the lease or rental of the fairgrounds, fair buildings, or facilities. If there were no such revenues recorded, inquire as to whether there had been any such rentals or leases. If so, determine where the rental or lease moneys were deposited.

5. Compliance Requirements:

- The fair commission of any county may establish a capital improvement fund in accordance with the provisions of Title 7, chapter 6, part 6. (Section 7-21-3413, MCA) Section 7-6-616, MCA, allows a capital improvement fund for the

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

COUNTY FAIR - continued:

5. Compliance Requirements - continued:

replacement, improvement, and acquisition of property, facilities, or equipment that costs in excess of \$5,000 and that has a life expectancy of 5 years or more. Other provisions of this section are:

- (a) A capital improvement fund must be formally adopted by the county, municipal, or special district governing body.
- (b) The capital improvement fund may receive money from any source, including funds that have been allocated in any year but have not been expended or encumbered by the end of the fiscal year.
- (c) Money in the capital improvement fund must be invested as provided by law, and interest and income from the investment of the capital improvement fund must be credited to the fund.

(Section 7-21-3413, MCA)

Suggested Audit Procedures:

- Determine whether the fair commission has established a capital improvement fund.
- If such a fund has been established, verify that it was formally adopted by the board of county commissioners. Review the formal resolution to determine that the fund was established for the replacement, improvement, and acquisition of property, facilities, or equipment that costs in excess of \$5,000 and that has a life expectancy of 5 years or more.
- Review the activity of the fund during the year, and verify that surplus money in the fund was invested, and that the resulting investment income was credited to the fund.

COUNTY SURVEYOR:

1. Compliance Requirements:

- The board of county commissioners shall set the county surveyor's fees by resolution. (Section 7-4-2821, MCA)

Suggested Audit Procedure:

- Test selected fees paid to the county surveyor and determine that the amounts agree to the amounts prescribed in the board of county commissioners' resolution.

2. Compliance Requirement:

- The county surveyor shall keep in his office a record of all surveys and plats made or caused to be made by him, to be recorded in proper books provided for that purpose.

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

COUNTY SURVEYOR:

2. Compliance Requirement – continued:

- He shall also keep on file and for record, in suitable plat books provided therefore, copies of all plats made or caused to be made by him and have recorded therein a description of every public highway within the county. All such books of record, together with original drawings and original book or books of field notes, calculations, and computations, are and shall remain the property of the county and shall be preserved as such. (Section 7-4-2813, MCA)

Suggested Audit Procedure:

- Through inquiry and observation determine if the county surveyor maintains the records as described above.

COUNTY TREASURER:

(Note: Most duties of the county treasurer are noted in CNTY-2, 3 and 4, and other county compliance supplements. The compliance requirements noted here are those that are unique to the office and that are not located in other compliance supplements. Other duties of the county treasurer pertaining to school district moneys are contained in SD-3.)

1. Compliance Requirements:

- When any money is paid to the county treasurer, he must issue a receipt in triplicate for such money. The original shall be delivered to the person paying the same, the duplicate shall be delivered to the county clerk, and the triplicate shall be retained in his office. (Section 7-6-2116, MCA)
- When any money is paid to the county treasurer through the mail or by any electronic means, he must issue receipts for the money. The original receipt shall be retained in his office and a duplicate shall be delivered to the county clerk. Upon request the county treasurer must issue a receipt to the person paying the money. (Section 7-6-2116, MCA)

Suggested Audit Procedure:

- Through inquiry and observation determine if the county treasurer's receipting procedures are as described above.

2. Compliance Requirements:

- The county treasurer shall make a detailed monthly report to the governing body of the county of all receipts, disbursements, debt, and other proceedings of the treasurer's office. (Section 7-6-612(2)(a), MCA)

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

COUNTY TREASURER - continued:

2. Compliance Requirements - continued:

(Note: If a county treasurer neglects or refuses to settle or report as required in 7-6-612, the county treasurer forfeits and shall pay to the county the sum of \$500 for each neglect or refusal. The board of county commissioners shall institute suits for the recovery of the sum. (Section 7-6-2113, MCA))

Suggested Audit Procedure:

- Review selected copies of the reports described above and determine if they were filed as required and contain the proper information.
- If no reports are found, did the board of county commissioners institute suit(s) for the recovery of \$500 for each neglect or refusal to furnish the required report.

3. Compliance Requirements:

- The treasurer must provide to the county clerk, on the first Monday of each month, a report of money received, the sources of the money, the amount of disbursements and to whom the disbursements were made and the money remaining on hand. (Section 7-6-2115, MCA)
- Between the 1st and 20th days of each month the county treasurer must remit to the Department of Revenue all money belonging to the state that was collected by the county treasurer during the preceding month as well as a detailed report in a form required by the Department of Revenue. **Beginning July 1, 2006**, the county treasurer shall remit to the Department of Justice by the 20th of each month all state money that was collected by the county treasurer due to motor vehicle, vessel, and snowmobile transactions during the preceding month. The remittance must be accompanied by a detailed report upon a form prescribed by the Department of Justice. (Section 15-1-504, MCA) (Note: See CNTY-3 for the source and distribution of common receipts. The distribution of motor vehicles fees/taxes begins on page 37 of 58 of that section.)
- By June 20 of each year, the county treasurer shall remit to the Department of Revenue an estimate of all money belonging to the state that was collected by the county treasurer by June 15, in addition to the amount collected during the preceding month. In July (**Effective January 1, 2006**, by July 15), the county treasurer shall remit all money belonging to the state that was collected by the county treasurer during the remainder of June. (Section 15-1-504, MCA)

Suggested Audit Procedure:

- Review selected copies of the reports described above and determine if they were filed as required and contain the proper information.

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

COUNTY TREASURER - continued:

4. Compliance Requirements:

- The county treasurer of each county must receive and shall hold all school money subject to apportionment and keep a separate accounting of its apportionment to the several districts that are entitled to a portion of the money according to the apportionments ordered by the county superintendent or by the superintendent of public instruction. (Section 20-9-212(1) & (3), MCA)
- The county treasurer of each county shall keep a separate accounting of the receipts, expenditures, and cash balances for each fund. (Section 20-9-212(3), MCA)

(Note: See Compliance Requirement No. 5 below.)

Suggested Audit Procedure:

- Through inquiry, and as part of testing cash and investment balances, determine if the county treasurer is the custodian of all school district money.

5. Compliance Requirements:

- The following apply to school district investment accounts:
 - (1) The trustees of a school district may establish investment accounts and may temporarily transfer into the accounts all or a portion of any of its budgeted or nonbudgeted funds
 - (2) Money transferred into investment accounts established under Section 20-9-235, MCA, may be expended from a subsidiary checking account under the conditions specified in (3(b) below.
 - (3) The district may either:
 - (a) establish and use the accounts as nonspending accounts to ensure that district funds remain in an interest-bearing status until money is reverted to the budgeted or nonbudgeted fund of original deposit as necessary for use by the county treasurer to pay claims against the district. The district shall ensure that sufficient money is reverted to the district's budgeted and nonbudgeted funds maintained by the county treasurer in sufficient time to pay all claims presented against the applicable funds of the district. The county treasurer shall accept all money that is reverted upon tendered transfer of the district.
 - OR**
 - (b) establish a subsidiary checking account for expenditures from the investment accounts. The district may write checks on or provide electronic payments from the account if:
 - (i) the payments made from the accounts representing budgeted funds are in compliance with the budget adopted by the trustees;

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

COUNTY TREASURER - continued:

5. Compliance Requirements - requirements:

- (ii) the accounts are subject to the audit of district finances completed for compliance with 2-7-503 and 20-9-503; and
 - (iii) the district complies with all accounting system requirements required by the superintendent of public instruction.
 - (4) (a) A district that chooses to establish a school district investment account described in Section 20-9-235, MCA, shall enter into a written agreement with the county treasurer. The agreement must:
 - (i) establish specific procedures and reporting dates to comply with the requirements of subsection (3) above;
 - (ii) Be binding upon the district and the county treasurer for a negotiated period of time;
 - (iii) be signed by the presiding officer of the board of trustees and the county treasurer; and
 - (iv) coincide with fiscal years beginning on July 1 and ending on June 30.
- (Section 20-9-235, MCA)

Suggested Audit Procedure:

- If there are investment accounts established under the provisions of Section 20-9-235, MCA, verify that the provisions of that section as listed above have been complied with, including the requirement that a written agreement with the county treasurer has been signed and is on hand with the county treasurer.

6. Compliance Requirements:

- The county treasurer shall, when directed by the trustees of a district, invest the money of the district within 3 working days of the direction. (Section 20-9-212(9), MCA)
- The county treasurer shall invest the money received from the basic county taxes for elementary and high school equalization, the county levy in support of the elementary and high school district retirement obligations, and the county levy in support of the transportation schedules within 3 working days of receipt. The money must be invested until the working day before it is required to be distributed to school districts within the county or remitted to the state. All investment income must be deposited, and credited proportionately, in the funds established to account for the taxes received for the purposes specified above. (Section 20-9-212(12), MCA)
- **Effective October 1, 2005**, school district clerks shall provide a minimum of 30 hours' notice in advance of cash demands to meet payrolls, claims, and electronic transfers that are in excess of \$50,000, pursuant to 20-3-325. If a district clerk fails to

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

COUNTY TREASURER - continued:

6. Compliance Requirements - requirements:

provide the required 30-hour notice, the county treasurer shall assess a fee equal to any charges demanded by the state investment pool or other permissible investment manager for improperly noticed withdrawal of funds. (Section 20-9-212(12), MCA)

Suggested Audit Procedure:

- Determine that the county treasurer has invested school money within 3 working days of being directed to do so by a school district board of trustees, and that the moneys received from the taxes specified above are invested within 3 working days of receipt and kept invested until the working day before it is required to be distributed to school districts within the county or remitted to the state.
- Determine that the investment income received from the school tax levies listed above is deposited, and credited proportionately, in the funds established to account for the taxes received for those purposes.
- **Effective October 1, 2005** - If a school district clerk fails to provide the required 30-hour notice for cash demands, and if the state investment pool or other investment manager charges a fee for this improper notice for withdrawal of funds, verify that the county treasurer has assessed the school district an equal fee.

7. Compliance Requirements:

- A separate accounting must be maintained for each county fund supported by a countywide levy for a specific, authorized purpose, including:
 - a. the basic county tax for elementary equalization;
 - b. the basic county tax for high school equalization;
 - c. the county tax in support of the transportation schedules;
 - d. the county tax in support of the elementary and high school district retirement obligations; and
 - e. any other county tax for schools, including the community colleges, that may be authorized by law and levied by the county commissioners.
 (Section 20-9-212(1), MCA)
- The county treasurer shall, each month, give to the trustees of each district an itemized report for each fund maintained by the district, showing the paid warrants, registered warrants, interest distribution, amounts and types of revenue received, and the cash balance; (Section 20-9-212(10), MCA)

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

COUNTY TREASURER - continued:

Suggested Audit Procedure:

- Determine that the county treasurer maintains separate accounts for school moneys as described above, and that the county treasurer gives to the trustees of each district an itemized report for each fund as described above.

8. Compliance Requirement:

- The county treasurer must send all revenue received for a joint district, part of which is situated in the county, to the county treasurer designated as the custodian of the revenue, no later than December 15 of each year and every 3 months after that date until the end of the school fiscal year; (Section 20-9-212(6), MCA)

Suggested Audit Procedures:

- Through inquiry determine if there are any joint districts located in the county.
- If so, determine which county has been designated as the custodian of each district's money, and verify that distributions to or from other counties were as described above.

JUSTICE OF THE PEACE:

1. Compliance Requirement:

- Each justice of the peace shall maintain a docket that details each proceeding or action, as specified in Section 3-10-501, MCA.

Suggested Audit Procedure:

- Review the docket of the justice of the peace and determine that it contains the information required by Section 3-10-501, MCA.

2. Compliance Requirements:

- Each justice of the peace shall collect **fees** prescribed by law for justices' courts and shall pay them to the county treasurer by the 10th day of each month. These fees must be deposited to the county general fund. (Section 3-10-601(1) and 7-4-2511, MCA)
- Fees that are paid in a civil action are as follows: (Section 25-31-112, MCA)
 - a. \$25 to be paid by plaintiff when complaint is filed;
 - b. \$10 to be paid by the defendant when the defendant appears;

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

JUSTICE OF THE PEACE:

2. Compliance Requirements - continued:

- c. \$10 to be paid by the prevailing party when judgment is rendered, except there is no charge where judgment is entered by default;
- d. \$10 for all services in an action where judgment is rendered by confession;
- e. \$10 for filing notice of appeal and transcript on appeal, justifying and approving undertaking on appeal, and transmitting papers to the district court with certificate.

Suggested Audit Procedures:

- Test the dates of selected remittance of fees from the justice court to the county treasurer to determine that they were deposited with the treasurer within the required amount of time, as noted above.
- Test selected remittances from the justice court to the county treasurer to determine that all fees collected were distributed to the county general fund.
- Test selected fees paid in civil actions to determine that the amounts agree to the amounts prescribed by Section 25-31-112, MCA.

3. Compliance Requirements:

- All **fin**, **penalties and forfeitures** must be paid to the county treasurer by the 5th day of the following month. (Exceptions are: (1) any judgments turned over to a collection agency, (2) fines for streambed conservation violations, (3) proceeds from seizures related to controlled substances by other law enforcement agencies, and (4) fines for violations of speed limits near schools. (Note: Numbers (2) through (4) are discussed below, as exceptions to the general distribution rule.) (Section 3-10-601(2))
- All fines, penalties, forfeitures, and assessments of costs are to be distributed 50% to the State (BARS Fund No. 7451) for deposit in the state general fund, and 50% to the county general fund. (Sections 3-10-601(3), and 46-18-235, MCA) The portion of these fines, etc., to be distributed to the State are remitted in Section 3 of the County Collection Report on a line captioned "J.P. Fines/Forfeiture (50%)" Exceptions to this general distribution rule are as follows:
 - a. Violations of laws relating to outfitters and guides – 50% to the county general fund and 50% to the State for deposit in the state special revenue fund for the use of the Board of Outfitters. (Section 37-47-344)
 - b. Drug violations of Title 45, Chapters 9 & 10, MCA - to the drug forfeiture account maintained for the law enforcement agency that made the arrest from which the conviction and fine arose. If the county sheriff or city/town law

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

JUSTICE OF THE PEACE - continued:

3. Compliance Requirements - continued:

- enforcement made the arrest, the fine is deposited to the county or city/town drug forfeiture fund, respectively. If state law enforcement officials made the arrest, the fine is deposited in an account in the state special revenue fund to the credit of the department of justice, to be used for enforcement of drug laws. (Sections 3-10-601 and 44-12-206, MCA)
- c. Illegal killing or possession of wildlife pursuant to Sections 87-1-111, 112, 113, and 115, MCA - to the State for deposit in the state special revenue fund account to the credit of the Department of Fish, Wildlife and Parks for hunter education purposes or for enforcement. Money collected in excess of \$60,000 annually must be remitted to the State for deposit in the state general fund. (Section 87-1-114, MCA)
- d. Wildlife Decoy Restitution - to the State for credit to the State Department of Fish, Wildlife and Parks. (Section 87-3-109(3), MCA)
- e. Violation of tax and registration requirements for off-highway vehicles - to the State to be deposited to the state general fund. (Section 23-2-807, MCA)
Although these fines are deposited in the state general fund, they are remitted to the State on a separate line captioned "FWP OHV Registration Fine – ATV Restitution Fine" in Section 3 of the County Collection Report.
- f. Failure to pay the fee in lieu of tax (**Effective January 1, 2006**, registration fee) on boats and other watercraft - 50% to the county general fund and 50% to the State to be credited to the motorboat state special revenue fund for use by the Department of Fish, Wildlife and Parks. (Section 23-2-519, MCA)
- g. State Recreational Land Use Permit Fines - to the State for deposit in the state general fund. (Section 87-1-601(7), MCA) Although these fines are deposited in the state general fund, they are remitted to the State on a separate line captioned "State Lands Use Permit Fine" in Section 3 of the County Collection Report.
- h. Tobacco possession or consumption by persons under 18 - to the county general fund. (Section 45-5-637, MCA)
- i. Violations of Natural Streambed and Land Preservation Act – fines and penalties deposited to a conservation district's depository, per justice court orders. (Sections 3-10-601 and 75-7-123, MCA)
- j. Gambling violations – to the State for deposit in the state general fund. (Section 23-5-123, MCA)
- k. **Effective October 1, 2005** - Violations of speed limits near schools – 50% of the fine must be distributed as provided in 3-10-601 (see general distribution, above), and 50% must be forwarded to the local authority that adopted the special speed limit. (Section 61-8-726, MCA)

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

JUSTICE OF THE PEACE - continued:

Suggested Audit Procedures:

- Test the dates of selected remittance of fines, forfeitures and penalties from the justice court to the county treasurer to determine that they were deposited with the treasurer within the required amount of time, as noted above.
- Test selected remittances from the justice court to the county treasurer to determine that all fines, penalties and forfeitures were distributed 50% to the county general fund and 50% to the state, unless otherwise noted above.

4. Compliance Requirements:

- In courts of original jurisdiction, upon an individual's conviction or forfeiture of bond or bail, there is imposed a charge that is in addition to any fine, court costs, or fees imposed. These amounts are as follows: (a) \$15 for each misdemeanor charge, (b) the greater of \$20 or 10% of the fine levied for each felony charge and (c) an additional \$25 (**Effective October 1, 2005, \$50**) for each misdemeanor and felony charge under Title 45, and Sections 61-8-401 and 61-8-406, MCA, that pertain to DUI's. (Section 46-18-236, MCA)
- The charges described above under (a) and (b) above are to be distributed 50% to the State for deposit in the state general fund, and 50% to the county general fund. (Sections 46-18-236(5) and 3-10-601(3), MCA; A.G.O. No. 63, Vol 42)
- The charge described above under (c) is to be distributed as follows:
 - a. If the county operates or uses a victim and witness advocate program that provides the services specified in Title 40, Chapter 15, and Title 46, Chapter 24, MCA, \$24 of the \$25 shall be used for payment of the expenses of that program. (BARS Fund #2917) The other \$1 shall be deposited in the fund that pays the collecting court's administrative costs incurred in the collection of the charge (usually the county general fund). (**Note: This \$1 is not subject to allocation under 46-18-251, as discussed in Compliance Requirement No. 6, below.**)
 - b. If the county does not operate or use a victim and witness advocate program, \$24 of the \$25 collected under (c) above must be paid to the crime victims compensation and assistance program in the department of justice for deposit in the state general fund to be used to provide services to crime victims as provided in Title 53, chapter 9, part 1, MCA. The other \$1 is distributed as described above.
(Section 46-18-236(7), MCA)

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

JUSTICE OF THE PEACE - continued:

Suggested Audit Procedure:

- Test selected cases to determine that upon conviction or forfeiture of bond or bail, the charge described above is imposed in addition to any other required fine, court cost, or fee, and that it is distributed as described above.

5. Compliance Requirements:

- Court Information Technology Surcharge - In courts of original jurisdiction, a \$10 surcharge that is in addition to any fine, court costs, or fees is imposed:
 - (a) on a defendant in criminal cases upon conviction forfeiture of bond or bail;
 - (b) on the initiating party in civil and probate cases, at the commencement of each action, proceeding, or filing; and
 - (c) on each defendant or respondent in civil cases upon appearance.

This surcharge is to be forwarded to the State for deposit in the account established under Section 3-5-904, MCA, (**Effective June 28, 2005**, for deposit in the state general fund) for state funding of court information technology. (Section 3-1-317, MCA)

- Montana Law Enforcement Academy Surcharge - In courts of limited jurisdiction, a \$10 surcharge that is in addition to any fine, court costs, or fees is imposed on a defendant who is convicted of criminal conduct or who forfeits bond. This surcharge is to be forwarded to the State (BARS Fund No. 7467) for deposit in an account in the state special revenue fund to be used by the Department of Justice on behalf of the Montana law enforcement academy. (Section 3-1-318, MCA)

Suggested Audit Procedure:

- Test selected cases to determine that the above two surcharges are collected in the amount, and distributed in the manner, indicated above.

6. Compliance Requirement:

- If a defendant is subject to payment of restitution and any combination of fines, costs, surcharges, etc, 50% of all money collected from the defendant must be first applied to payment of restitution and the balance must be applied to these other payments, in the order listed in Section 46-18-251, MCA (i.e., surcharge imposed pursuant to 46-18-236 first, then supervisory fees imposed pursuant to 46-23-1031, then costs imposed pursuant to 46-18-232 or 46-18-233, then fines imposed pursuant to 46-18-231 or 46-18-233, and then any other payments ordered by the court.) (Section 46 - 18-251, MCA) (**Note: The funds deposited under Section 46-18-236(7)(b) (i.e., the \$1 deposited to the fund that pays the collecting court's administrative costs incurred in the collection of the surcharge discussed in Compliance Requirement No. 4, above) are not subject to this allocation.**)

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

JUSTICE OF THE PEACE - continued:

Suggested Audit Procedure:

- Test selected cases to determine that money collected from a defendant is allocated as indicated above.

LIBRARIES:

1. Compliance Requirement:

- All library claims and payroll expenditures must be approved by the board of library trustees. (Section 22-1-304(4), MCA)

Suggested Audit Procedure:

- As part of expenditure testing, determine that library expenditures were approved by the board of library trustees.

2. Compliance Requirements:

- Subject to 15-10-420, the governing body of the county which has established a public library may levy a tax to maintain adequate library services. (Section 22-1-304(1), MCA)
- The governing body may by resolution submit the question of imposing a tax levy (new, increased, or in excess of the mill levy limit in 15-10-420) to a vote of the qualified electors at an election as provided in Section 15-10-425, MCA. The resolution must be adopted at least 75 days prior to the election at which the question will be voted on.
(Section 22-1-304(2), MCA)

(Note: The board of county commissioners may not modify the decision of library trustees concerning wage and salary amounts for library employees, may not modify an annual library budget adopted by library trustees, and may not refuse, within statutory millage limits, to levy some or all of the property taxes necessary to satisfy an annual budget adopted by the library trustees. (A.G.O. Number 91, Volume 41) (See also A.G.O. Number 3, Volume 48))

- The proceeds from the tax levy must be deposited to a separate public library fund (BARS Fund #2220). (Section 22-1-304(3), MCA)

Suggested Audit Procedures:

- Determine that the tax levy for the library was within the limits noted above, unless approval was obtained from the voters for a higher levy.

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

LIBRARIES - continued:

Suggested Audit Procedures - continued:

- Determine that any proceeds from the tax levy for the library were deposited to a separate library fund.

3. Compliance Requirements:

- The governing body of the county may establish a library depreciation reserve fund (a capital projects fund-type) to be used for the replacement and acquisition of property, capital improvements, and equipment necessary to maintain and improve the county or city-county library services. (Section 22-1-305, MCA)
- Moneys for the library depreciation reserve fund are those funds which have been allocated to the library in any year but which have not been expended by the end of the year. Such moneys include but are not limited to county or city-county appropriations, federal revenue sharing funds, and public and private grants. All interest earned on the fund must be credited to the library depreciation reserve fund. (Sections 22-1-306 and 307, MCA)

Suggested Audit Procedures:

- Test selected expenditures from the library depreciation reserve fund and determine that they were used for the purposes specified above.
- Review revenues to the fund and determine that they were only from the sources as described above.
- Determine that any interest earned from the investment of moneys held in the library depreciation reserve fund are credited back to that fund.

4. Compliance Requirement:

- Library trustees will serve without compensation, except for actual and necessary expenses incurred in the performance of their official duties. (Sections 22-1-308(3) and 22-1-317(3), MCA)

Suggested Audit Procedure:

- As part of expenditure testing, determine that payments to library trustees were only for actual and necessary expenses incurred in performing their duties.

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

LIBRARIES - continued:

5. Compliance Requirement:

- The library board must prepare an annual report to the governing body of the county regarding the condition and operation of the library, including a financial statement. The trustees shall also report to the state library annually. (Section 22-1-309(7), MCA)

Suggested Audit Procedures:

- Determine that the required annual report was submitted to the governing body of the county and to the state library.
- Verify that the amounts reported in the annual report to the governing body, state library and Department of Administration (County's Annual Financial Report) were the same, and agreed to the accounting records maintained by the library.

6. Compliance Requirement:

- The library may accept gifts, grants, donations, devises, or bequests. These must be maintained separately from regular library funds and are not subject to reversion at the end of the fiscal year. (Section 22-1-309(8), MCA)

Suggested Audit Procedure:

- Determine that funds received from gifts, grants, donations, devises, or bequests are maintained in a fund or funds separate from regular library funds.

PUBLIC ADMINISTRATOR:

1. Compliance Requirement:

- The public administrator must prepare an inventory of all estates that are in his/her possession. (Section 72-15-201, MCA)

Suggested Audit Procedure:

- Review the public administrator's inventory of estates to determine that it is being prepared as required.

2. Compliance Requirement:

- The public administrator must keep a book labeled "Register of Public Administrator". The book must include the name of every deceased person on whose estate he administers, the date of granting letters, money received, the property and its

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

PUBLIC ADMINISTRATOR - continued:

2. Compliance Requirement - continued:

value, proceeds of all sales of property, amount of the administrator's fees, the expenses of administration, the amount of the estate after all charges and expenses have been paid, the disposition of the property on distribution, the date of discharge of the administrator, and such other matters as may be necessary to give a full and complete history of each estate administered by him/her. (Section 72-15-204, MCA)

Suggested Audit Procedure:

- Review the Register of Public Administrator to determine if it contains the information that is specified by law.

3. Compliance Requirement:

- All money from an estate, on which probate proceedings are pending, must be immediately deposited with the county treasurer. The county treasurer must maintain a separate trust account for these receipts. (Section 72-15-205, MCA)

Suggested Audit Procedure:

- Test selected receipts to determine that they are deposited with the county treasurer in a timely manner and credited to a separate trust fund.

4. Compliance Requirements:

- Money may be paid out of the estate trust fund only upon order of the personal representative and when countersigned by a district judge. (Section 72-15-205, MCA)
- The public administrator is required to account and settle his/her accounts, relating to the care and disbursement of money or property belonging to estates, with the clerk of district court on the first Monday of each month, and must pay to the county treasurer any money remaining from an unclaimed estate. (Section 72-15-206, MCA)

Suggested Audit Procedures:

- Test selected disbursements of estate funds to determine that they were authorized by the personal representative and countersigned by a district judge.
- Determine whether there were any unclaimed estates, and if so whether any money remaining in these estates was deposited with the county treasurer as required by statute.

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

PUBLIC ADMINISTRATOR - continued:

5. Compliance Requirements:

- The public administrator must, annually, post in the office of the clerk of district court or a judge thereof an annual report of all estates charged to the administrator. The information that is required is as follows: value of the estate, the money which came into the hands of the administrator from each estate, what has been done with it, the amount of the administrator's fees and expenses, and the balance remaining with the administrator, if any. (Section 72-15-207, MCA)

Suggested Audit Procedures:

- Determine that the annual report of all estates was filed as required.
- Review a copy of the annual report of all estates, and determine that it contained all required information.

6. Compliance Requirement:

- The public administrator must not be interested in the expenditures made on account of any estate he/she administers, and may not be associated, in business or otherwise, with anyone who is so interested. An affidavit to this effect must be attached to the annual report and publication required by Section 72-15-207, MCA. (Section 72-15-211, MCA)

Suggested Audit Procedure:

- Determine that the required affidavit is on file with the annual report.

7. Compliance Requirement:

- The official bond for the public administrator must be adequate to cover the value of the property and funds in the hands of the administrator. (Sections 72-15-208 and 72-15-103, MCA)

Suggested Audit Procedure:

- Review the bond coverage for the public administrator and determine if it is adequate based on the value of the property and funds in the hands of the administrator.

8. Compliance Requirements:

- A public administrator is entitled to the following compensation: (Sections 72-15-301 and 72-3-631, MCA)
 1. 3% of the first \$40,000 of the value of the estate as reported for federal estate tax purposes, and 2% of the value of the estate in excess of \$40,000 as reported for

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

PUBLIC ADMINISTRATOR - continued:

8. Compliance Requirements:

federal estate tax purposes. The administrator is entitled to a minimum of the lesser of \$100 or the value of the gross estate.

2. In proceedings conducted for the termination of joint tenancies, the compensation must not exceed 2% of the interest passing.

3. In proceedings conducted for the termination of a life estate, the compensation must not exceed 2% of the value of the estate, except that it must not be less than \$100.

- The court may allow additional compensation for extraordinary services. The additional compensation may not be greater than the amount that is allowed for the original compensation. (Section 72-3-631(5), MCA)
- A public administrator that is appointed conservator of the estate of a protected person (minor or person with a disability) pursuant to Title 72, Chapter 5, Part 4, MCA, may receive a reasonable sum to be deducted from the payments due to the protected person, as ordered by the court. The total sum deducted as compensation for the public administrator may not be less than \$100. (Section 72-15-301, MCA)

Suggested Audit Procedure:

- Test the compensation of the public administrator to determine that they have received the amounts authorized by law and/or as ordered by the court.

9. Compliance Requirement:

- At the final settlement of an estate, if there are no heirs or other claimants, the district judge shall order the public administrator to sell all property belonging to the estate and pay the proceeds to the county treasurer. The county treasurer shall remit the money to the Montana Department of Revenue. (Section 72-14-204 & 72-15-212, MCA)

Suggested Audit Procedure:

- Determine if there were any final settlements of estates in which there were no heirs or other claimants. If this was the case, determine that the money remaining in the estate was remitted to the Montana Department of Revenue.

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

SHERIFF'S OFFICE:

1. Compliance Requirement:

- The sheriff, when performing official duties, shall receive actual expenses when traveling by railroad or airline and will receive a mileage allowance as provided in Section 2-18-503, MCA, for each mile traveled when traveling other than by airline or railroad. No mileage may be paid by the county to a sheriff if the sheriff's vehicle is provided and maintained by the county. All mileage paid to sheriffs whose vehicles are provided and maintained by the county shall be paid over to the county treasurer and deposited in the general fund. The mileage claims must be paid by claim or warrant or deducted from collections prior to remittance to the county treasurer. (Sections 7-32-2143, 7-32-2144, 7-32-2145 and 2-18-503, MCA) **(NOTE: See CNTY-5 for discussion of 2-18-503 and mileage allowance.)**

Suggested Audit Procedure:

- As part of expenditure testing, determine that travel expenses incurred by the sheriff's office were paid as specified above.

2. Compliance Requirements:

- For the services provided in Section 7-32-2141, MCA, such as serving summons and complaints, for serving writs or attachment, subpoenas, etc., the sheriff shall receive the fees, if any, set by the county commissioners. If no fees have been set, the sheriff will receive the fees specified in Section 7-32-2141, MCA, and as set out below. All fees collected by the sheriff for those services must be paid to the county treasurer as provided in Section 7-4-2511(1), MCA, and the money must be deposited by the county treasurer in the county general fund unless the county has instituted a public safety levy, in which case the fees must be deposited in the public safety fund. (Sections 7-32-2141, 7-4-2511, and 7-6-2513, MCA)
- If the county governing body has not set the sheriff's fees, the sheriff shall receive the following:
 - (a) for the service of summons and complaint on each defendant, \$5;
 - (b) for making a return of a summons for a person not found in the county, in addition to actual mileage traveled, \$5;
 - (c) for levying and serving each writ of attachment of execution on real or personal property, \$5;
 - (d) for service of attachment on the body or order of arrest on each defendant, \$5;
 - (e) for the service of affidavit, order, and undertaking in claim and delivery, \$5;
 - (f) for serving a subpoena, \$2.50 for each witness summoned;
 - (g) for serving a writ of possession or restitution, \$5;
 - (h) for trial of right of property or damages, including all services except mileage, \$7;
 - (i) for taking bond or undertaking in any case authorized by law, \$5;

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

SHERIFF'S OFFICE - continued:

2. Compliance Requirement - continued:

- (j) for serving every notice, rule, or order, \$5 for each person served;
 - (k) for a copy of any writ, process, or other paper when demanded or required by law, 25 cents for each page;
 - (l) for posting notices and advertising any property for sale on execution or under any judgment or order of sale, exclusive of cost of publication, \$5;
 - (m) for holding any sheriff's sale for personal or real property on execution or under any judgment or order of sale, \$7.50;
 - (n) for cancellation or postponement of sheriff's sale, \$5.
- (Section 7-32-2141, MCA)

Suggested Audit Procedures:

- Test the sheriff's office register or record of fees collected for the above services and determine that the proper fees were charged as set by the county commissioners, or as established by Section 7-32-2141, MCA.
- Determine that the fees were paid to the county treasurer and deposited to the county general fund or the public safety fund, if applicable.

COUNTY SUPERINTENDENT OF SCHOOLS:

1. Compliance Requirements:

- The county superintendent of schools must submit an annual report to the Superintendent of Public Instruction, not later than the second Monday in September, which is to be completed on the forms supplied by the Superintendent of Public Instruction. (Section 20-3-209, MCA) The report will include:
 1. the final budget information for each district of the county, as prescribed by Section 20-9-134(1), MCA;
 2. The revenue amounts used to establish the levy requirements for the county school fund supporting school district transportation schedules, as prescribed by 20-10-146, and for the county school funds supporting elementary and high school district retirement obligations, as prescribed by 20-9-501;
 3. the financial activities of each district of the county for the immediately preceding school fiscal year as provided by the trustees's annual report to the county superintendent under the provisions of Section 20-9-213(6), MCA;
 4. any other information requested by the Superintendent of Public Instruction.
- The county superintendent shall, within 90 days after the close of the school fiscal year, publish an annual report in the county newspaper stating the following financial information for the school fiscal year just ended for each district of the county:

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

COUNTY SUPERINTENDENT OF SCHOOLS - continued:

1. Compliance Requirements - continued:

- a. the total of the cash balances of all funds maintained by the district at the beginning of the year;
 - b. the total receipts that were realized in each fund maintained by the district;
 - c. the total expenditures that were made from each fund maintained by the district; and
 - d. the total of the cash balances of all funds maintained by the district at the end of the school fiscal year;
- (Section 20-3-205(1)(x), MCA)

Suggested Audit Procedure:

- Obtain a copy of the county superintendent's annual report to the Superintendent of Public Instruction and the annual report published by the superintendent in the county newspaper and determine that they were submitted by the dates set in law, and that they contain all the information described above.

2. Compliance Requirement:

- Each month the county superintendent must order the county treasurer to apportion state, county, and any other school money subject to apportionment in accordance with the provisions of Sections 20-9-212 (countywide school levies), 20-9-347 (BASE funding), 20-10-145 (state transportation reimbursement), or 20-10-146 (county transportation reimbursement), MCA. (Section 20-3-205(1)(m), MCA)

Suggested Audit Procedure:

- Determine that the county superintendent orders the county treasurer to make the required apportionments of school moneys monthly.

WEED BOARD:

1. Compliance Requirements:

- The board of county commission may establish by resolution a weed management board, and specify whether members are entitled to mileage, per diem, expenses, and salary. (Section 7-1-201 & 202, MCA)

Suggested Audit Procedures:

- Review the resolution establishing the weed management board and test to determine that members are being paid mileage, per diem, expenses, and/or salaries as specified in the resolution.

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

WEED BOARD - continued:

2. Compliance Requirements:

- The county commissioners must create a noxious weed management fund, to be designated the "noxious weed fund." (BARS Fund #2140) (Section 7-22-2141, MCA)
- The county commissioners may provide sufficient money in the noxious weed fund for the board to fulfill its duties, as specified in Section 7-22-2109, MCA, by (a) appropriating money from the general fund of the county; and (b) subject to 15-10-420 and at any time fixed by law for levy and assessment of taxes, levying a tax of not less than 1.6 mills on the taxable value of all taxable property in the county or by contributing an equivalent amount from another source of not less than the amount received from all county sources in fiscal year 2000 or, for first-class counties, as defined in Section 7-1-2111, MCA, the greater of the amount received from all county sources in fiscal year 2000 or \$100,000. The tax levied must be identified on the assessment as the tax that will be used for noxious weed control. (Section 7-22-2142(2), MCA)

Suggested Audit Procedure:

- Determine that the county has established a noxious weed fund, and that any source of financing for the fund or any mill levy for the fund is not in excess of the limits as described above.

3. Compliance Requirement:

- Any proceeds from work or chemical sales must be deposited to the noxious weed fund and be available for reuse within that fiscal year or any subsequent year. (Section 7-22-2142(4), MCA)

Suggested Audit Procedure:

- As part of revenue testing, determine that any proceeds from work or chemical sales related to weed control were deposited in the noxious weed fund.

4. Compliance Requirements:

- The proceeds of the noxious weed control tax or other contribution must be used solely for the purpose of managing noxious weeds in the county. (Section 7-22-2142(3), MCA)

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

WEED BOARD - continued:

4. Compliance Requirements - continued:

- All expenditures must be at the time and in the manner as is recommended by the noxious weed board. Warrants upon the fund must be drawn by the noxious weed board. Warrants may not be drawn except upon claims duly itemized by the claimant, except payroll claims that must be itemized and certified by the board. Each claim must be presented to the board of county commissioners for approval before the warrant is countersigned by the commissioners. (Section 7-22-2145, MCA)

Suggested Audit Procedures:

- As part of expenditure testing, verify that any expenditures made from the noxious weed fund are solely for the purpose of managing noxious weeds.
- As part of expenditure testing, determine that expenditures from the noxious weed fund were recommended by the noxious weed board and drawn upon the noxious weed fund by the board. Determine that each claim was presented to the board of county commissioners for approval and that the county commissioners countersigned the warrants.

5. Compliance Requirement:

- The county commissioners, upon recommendation of the weed board, may establish a cost-share program for the control of noxious weeds. The weed board shall develop rules and procedures for the administration of the cost-share program. Any person may voluntarily enter into a cost-share agreement for the management of noxious weeds on the person's property. A cost-share agreement entered into by the weed board and any person must specify the costs to be paid from the noxious weed fund, the costs to be paid by the other person, a location-specific weed management plan that must be followed by the person, and reporting requirements of the person to the board. (Section 7-22-2146, MCA)

Suggested Audit Procedure:

- Review any cost-sharing plans established and determine that the amount of the costs to be paid by the noxious weed fund and by the other person are specified, and determine that costs are actually paid according to the plan.

6. Compliance Requirements:

- If necessary, and following the process set forth in Section 7-22-2123, MCA, the board may enter upon a person's land and institute appropriate weed control measures. The cost of labor, material and equipment time, together with a penalty not exceeding 50% of the total cost incurred, shall be billed to the person and shall be payable within 30 days. A copy of the bill shall also be sent to the clerk and recorder. (Section 7-22-2124, MCA)

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

WEED BOARD - continued:

6. Compliance Requirements - continued:

- Weed control charges to landowners, either as discussed above or through a voluntary cost-sharing plan as discussed in Compliance Requirement No. 5 above, that are not paid by the due date must be turned over to the county clerk and recorder to be certified and entered on the assessment list of the county as a special tax on the owner's land. (Section 7-22-2148, MCA)

Suggested Audit Procedure:

- Test weed control charges to landowners and determine that any that were past due were turned over to the county clerk and recorder to be certified and entered on the assessment list of the county as a special tax on the owner's land.